

REMARKS

Status Of The Claims

This is an Amendment and Reply to the Final Office Action mailed December 31 , 2007, in which the following rejections were set forth: Claim 1 was provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 1 of copending U.S. Patent Application Serial No. 10/507,089 and was also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 1 of copending U.S. Patent Application Serial No. 10/507,090 under 35 U.S.C. § 102(e) as being anticipated by *Sagane* and *Fessler*; and, Claims 1 and 2 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

By this response, Claim 1 has been amended and no claims have been added or canceled. As such, Claims 1 and 2 are pending and reconsideration of the present application is respectfully requested.

Nonstatutory Obviousness-Type Double Patenting Rejections

The present application, as well as the pending U.S. Patent Application Serial Nos. 10/507,089 and 10/507,090 that are being relied upon to reject Claim 1 of the present application under nonstatutory obviousness-type double patenting, are commonly owned by the same assignee—Eisenmann Anlagenbau GmbH & Co. KG.

Applicant herein submits Terminal Disclaimers to overcome the provisional rejections of Claim 1. As such, Applicant respectfully requests that the rejection of Claim 1 and all pending claims be removed and the claims be allowed to issue.

§ 112 Claim Rejections

Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter that Applicant regards as the invention. As such, no new matter has been added. Applicant respectfully submits that the claim amendments place the application in condition for allowance and that no new issues for consideration have been presented. In particular, Applicant submits that introduction of the tilting apparatus is more understandable as being a function of the feed carriage. Furthermore, Applicant's amendments address the Examiner's concern with respect to how the drive for the running gear relates to the mutually independently actuable

drives. That is, the amendments clarify that the drive of the running gear does not relate to the mutually independently actuable drives for the translational movement, the swiveling motion of the at least one swivel arm, and of the holding device.

As such, amended Claim 1—as well as Claim 2, which is dependent thereon—is respectfully submitted to be in condition for allowance and the Applicant requests that the rejection of the claims be withdrawn.

§ 102(e) Claim Rejections

Although Applicant submits that the claim amendments and provided terminal disclaimers place the application in condition for allowance, Applicant further includes additional remarks directed to the claimed invention's patentable distinction over the relied upon prior art.

Fessler

Newly cited *Fessler* discloses an apparatus for handling confectionary products in which an upper part 33 and a lower part 34 of slot 9 are hingedly connected. Admittedly, *Fessler* discloses a link joint in general; however a link joint is not the subject matter of amended Claim 1. Therefore, *Fessler* fails to disclose or suggest the structure of the present invention wherein the swivel arm is hingedly coupled to the running gear and the holding device is hingedly coupled to the swivel arm.

Sagane

As presented earlier, *Sagane* does not teach mutually independently actuable drives for the translational movement, the swiveling motion of the at least one swivel arm, and of the holding device. On the contrary, rotation of *Sagane's* rotational shaft 4 is coupled to translational movement of carrier 3 in a first embodiment. See *Sagane*, Figs. 1-8 and paragraph [0091].

Sagane's second embodiment depicted in Figs. 9-12 discloses a moveable—rotational—portion 30 of conveyor 2. In this instance, rotation can only occur in situations where carrier 3 rests on portion 30. That is, there is no translation of movement when rotation occurs, and thus, no mutually independently actuable drives as required by Applicant's claimed invention.

Similar to the second embodiment, the situation depicted in *Sagane*'s third embodiment shown in Figs. 13-16 is essentially the same; although the relative position of the work piece 1 and the carrier 3 is different with respect to the second embodiment.

Consequently, *Sagane* fails to disclose or teach each and every element of Applicant's claimed invention.

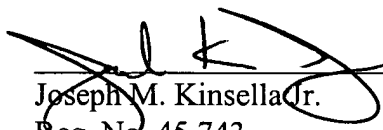
In conclusion, the relied upon prior art—alone or in combination—fails to teach, disclose, or suggest each and every element of Applicant's amended Claim 1, as well as dependent Claim 2. Applicant therefore respectfully requests that the rejections of the pending claims be removed and the claims be allowed to issue.

CONCLUSION

In view of the above amendments, remarks, and terminal disclaimers, Applicant respectfully requests that all rejections be removed and all pending claims be passed to issue. Applicant believes that no additional fees are required, however if any fees are required, they may be paid out of our Deposit Account No. 50-0545.

Respectfully Submitted,

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